

SERVED: February 25, 1999

NTSB Order No. EA-4747

UNITED STATES OF AMERICA
NATIONAL TRANSPORTATION SAFETY BOARD
WASHINGTON, D.C.

Issued under delegated authority (49 C.F.R. 800.24)
on the 25th day of February, 1999

_____)	
JANE F. GARVEY,)	
Administrator,)	
Federal Aviation Administration,)	
)	
Complainant,)	
)	Docket SE-15470
v.)	
)	
THOMAS HARLAN CHERF,)	
)	
Respondent.)	
_____)	

ORDER DISMISSING APPEAL

The Administrator has moved to dismiss the appeal filed by the respondent in this proceeding because it was not, as required by Section 821.57(b) of the Board's Rules of Practice,¹ perfected by the filing of a timely appeal brief by January 19, 1999; that is, within 5 days after he filed a notice of appeal from the law

¹Section 821.57(b), 49 C.F.R. Part 821, provides, in pertinent part, as follows:

§ 821.57 Procedure on appeal.

* * * *

(b) *Briefs and oral argument.* . . . Within 5 days after the filing of the notice of appeal, the appellant shall file a brief with the Board and serve a copy on the other parties. . . . Appeals may be dismissed by the Board on its own initiative or on motion of a party. . . in cases where a party fails to perfect the notice of appeal by filing a timely brief.

judge's January 12 decision.² The motion, to which no answer has been received, will be granted.

The record establishes that respondent on January 12, 1999, filed a document that may have been intended to constitute a notice of appeal from the order the law judge served on that date, but he has not, to date, filed an appeal brief.

Without good cause to excuse a failure to file an appeal brief on time, a party's appeal must be dismissed. See Administrator v. Hooper, 6 NTSB 559 (1988).

ACCORDINGLY, IT IS ORDERED THAT:

1. The Administrator's motion to dismiss is granted; and
2. The respondent's appeal is dismissed.

Daniel D. Campbell
General Counsel

The brief was due for filing on the 19th of January because the fifth day following service, the 17th, was a Sunday, and the next day, the 18th, was a Federal holiday. See Section 821.10.

²The law judge granted a motion by the Administrator to dismiss as untimely an appeal from an emergency order of the Administrator that revoked respondent's commercial pilot, flight instructor and mechanic certificates for his alleged violations of sections 61.403(a)(1), 61.15(a), and 61.12(a) of the Federal Aviation Regulations, 14 CFR Part 61.